

REMARKS/ARGUMENTS

In response to the Office Action dated May 21, 2004, claims 1, 10 and 14 are amended, and claims 12 and 13 are canceled. Claims 1-11 and 14-17 are now active in this application. No new matter has been added.

The indication that claims 9 and 17 would be allowable if rewritten in independent form including all the limitations of the base claim and any intervening claims is acknowledged and appreciated.

REJECTION OF CLAIMS UNDER 35 U.S.C. § 103

I. Claims 1-4, 7, 10-14 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Booth et al. (USPN 6,516,352) in view of Trans (US 2001/0038674 A1).

Claims 6, 8, 15 and 16 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Booth et al. (USPN 6,516,352) in view of Trans (US 2001/0038674 A1), and further in view of Joung et al. (USPN 6,628,613).

II. The rejections are respectfully traversed.

In imposing a rejection under 35 U.S.C. § 103, the Examiner is charged with the initial burden of identifying a source in the applied prior art for: (1) claim limitations; and (2) the requisite motivation to combine references with a reasonable expectation of achieving a specific result. *Smiths Industries Medical Systems v. Vital Signs* 183 F.3d 1347, 51 USPQ2d 1415 (Fed. Cir. 1999). That burden has not been discharged.

Independent claim 1 requires, *inter alia*:

***a plurality of network interface devices (NIDs), each NID respectively corresponding to one of the PHYs, and each NID having a media access controller (MAC), with at least one of the NIDs configured as a master NID for communicating configuration information between the PHYs and a configuration source (Emphasis added).***

In the Office Action, the Examiner asserts that:

“However, the cited prior art [Booth et al.] fails to teach a plurality of network interfaces devices (NIDs) coupled to the PHYs. In addition, the Booth et al. does not teach configuring the MAC of each NID in accordance with auto negotiation results for a corresponding PHY. Regarding these limitations, Trans teaches a MAC section having a plurality of MACs (see Figured 1C, “131” , “132”). In addition, PHY device provides result (see [0185]) to the higher level MAC for configuration purposes. At the time of the invention, one of ordinary skill in the art would have been motivated to combine the cited disclosures in order to obtain a network interface system (see Booth et al.) with “precise control” (see Trans, Abstract) of network parameters, where the communication would be “measured” and “calibrated”.”

From the above comments, it is clear that the Examiner has failed to establish that either of the applied prior art references discloses a plurality of network interface devices with each NID respectively corresponding to one of the PHYs, and at least one of the NIDs configured as a master NID. First the Examiner admits that Booth et al. does not teach a plurality of NIDs. Given such fact, it further clear that there is also no disclosure that each of the non-existent plurality of NIDs respectively corresponds to one of the plurality of PHYs, or that at least one of the NIDs is configured as a master NID, all of which is required in claim 1. The Examiner provides no description concerning Trans disclosing a plurality of NIDs, referring only to the

fact that Trans has a plurality of MACs. However, a single NID can have a plurality of MACs. In this regard, the single MAC section 13 of Trans is shown in Figure 1C as being connected to a single (variable) transceiver 141. Such disclosure does not establish where in the applied prior art references there is disclosed a plurality of network interface devices with each NID respectively corresponding to one of the (plurality of) PHYs, let alone that there is at least one of the NIDs configured as a master NID.

Independent claim 10 recites, *inter alia*:

configuring with the configuration source the individual media access controller (MAC) of each of a plurality of network interface devices (NIDs) based on the autonegotiation results received by the configuration source from the PHYs, ***each NID corresponding to a respective PHY*** [of the plurality of PHYs] (Emphasis added).

As with claim 1, the Examiner has not established where in the applied prior art references there is disclosed a plurality of network interface devices with each NID respectively corresponding to one of the (plurality of) PHYs.

As the Examiner has failed to identify a source in the applied prior art for all the claim limitations, the Examiner has not establish a *prima facie* case of obviousness under 35 U.S.C. § 103 at least for want of the requisite factual basis. Consequently, withdrawal of the rejections of claims 1-17 under 35 U.S.C. § 103 is respectfully solicited.

#### AMENDMENTS TO THE CLAIMS

Claim 1 is amended to move the “shared management data bus coupling together each of the PHYs and to which the master NID is coupled and carrying the prescribed configuration information and autonegotiation results” as a separate recitation. This recitation is now part of

the recitation of “a plurality of network interface devices...” to provide better for. More specifically, “a shared management data bus” is recited as part of recitation of “a plurality of physical layer devices...”. Consequently, it may be confusing to provide the separate recitation to “a shared management data bus” at its currently location. In addition, the word “system” is added to the preamble to provide consistency with dependent claims 2-9. Such changes in no way alters the current scope of claim 1.

Claim 10 is amended to include the limitations of claims 12 and 13, now cancelled, and claim 14 is amended to depend from claim 11. Including the limitations of claims 12 and 13 adds to independent claim 10 the requirements of a shared management data buss and that at least one of the NIDs is configured as a master NID. In addition, claim 10 further delineates coupling the master NID between the shared management data bus and the configuration source, and directing all autonegotiation results and all prescribed configuration information through the master NID. Thus, amended claim 10 recites additional features of claim 1 that are not disclosed or suggested in the applied prior art references.

## CONCLUSION

Accordingly, it is urged that the application, as now amended, is in condition for allowance, an indication of which is respectfully solicited. If there are any outstanding issues that might be resolved by an interview or an Examiner's amendment, Examiner is requested to call Applicants' attorney at the telephone number shown below.

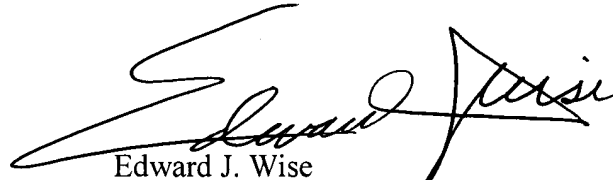
To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper,

09/745,422

including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,

McDERMOTT WILL & EMERY



Edward J. Wise  
Registration No. 34,523

600 13th Street, NW  
Washington, DC 20005-3096  
(202) 756-8000 EJW/dmd  
**DATE: August 13, 2004**  
Facsimile: (202) 756-8087